

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

In re:)
)
SAMUEL DEE ROSE)
)
and) Case No. 04-40458-JWV
)
MARILYN DOLORES ROSE,)
)
Debtors.)

**MOTION OF TRUSTEE TO PAY SURPLUS FUNDS
INTO THE REGISTRY OF THE COURT**

COMES NOW Jerald S. Enslein, trustee ("Trustee"), and for the Motion of Trustee to Pay Surplus Funds into the Registry of the Court ("Motion"), respectfully states:

1. On January 26, 2004, debtors Samuel Dee Rose and Marilyn Dolores Rose (collectively, "Debtors") filed with the Court their voluntary joint Petition pursuant to 11 U.S.C. Chapter 7.

2. The Court has jurisdiction to hear this matter pursuant to 28 U.S.C. §§157 and 1334, and venue in this Court is proper under 28 U.S.C. §§1408 and 1409(a). Further, this matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A).

3. The Trustee was appointed by the United States Trustee to serve as interim trustee in this case pursuant to 11 U.S.C. §701(a)(1), and serves as trustee pursuant to 11 U.S.C. §701(c).

4. The Trustee's Final Report ("Final Report") (document number 97 of the Docket Report of the Court) was filed on January 5, 2011.

5. In accordance with the Final Report, the Trustee issued check number 10105 ("Check No. 10105") from the checking account maintained at The Bank of New York Mellon solely with respect to this case ("Checking Account") that was payable to the order of FNANB Visa Classic ("FNANB") for the amount of \$871.02, which represented payment of Claim Number 1 at the rate of 8.97% that was filed by Direct ("Payment"). Although mailed to the address provided on Claim Number 1 of FNANB, the Payment was returned by the U.S. Postal Service with no forwarding address; therefore, Check No. 10105 was not presented for payment and thus a stop payment order was issued with respect to it on or about March 8, 2011.

WHEREFORE, the Trustee respectfully prays that the Court issue an Order that:

- (a) sustains the Motion and authorizes the Trustee to pay into the Registry of the Court the sum of \$871.02, which represents the Payment owed to FNANB; and
- (b) grants such other relief as the Court deems just.

/s/ Jerald S. Enslein, Trustee

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CHAPTER 7 TRUSTEE

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of March, 2011, the above and foregoing was filed electronically with the Clerk of the Court pursuant to the Case Management/Electronic Case Filing system of the Court, and electronic notice of such filing was served by the Office of the Clerk upon parties in interest registered in such Case Management/Electronic Case Filing system with respect to this case, with a true and correct copy of the above and foregoing being served by the undersigned via other electronic transmission or First Class U.S. Mail, postage prepaid, on the following:

Office of the U.S. Trustee
Susan.A.Streeter@usdoj.gov

/s/Jerald S. Enslein, Trustee
CHAPTER 7 TRUSTEE